IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

Bail Appl..No. 6460 of 2007(D)

(IN C.P. NO. 237/2007 PENDING BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE'S COURT, KASARAGOD)

PETITIONER/IST ACCUSED

DEVADATHAN, S/O.KOCHUNANU,
KANNAMANGALAM, MAVELIKKARA, ALAPPUZHA DISTRICT.

BY ADV. DR.K.P.SATHEESAN

RESPONDENTS: STATE AND COMPLAINANT
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1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE EXCISE INSPECTOR,
EXCISE RANGE OFFICE, KASARAGOD.

BY BY PUBLIC PROSECUTOR SRI. S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No. 6460 of 2007

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Dated this the 24th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. 200 bottles of Indian Made Foreign Liquor were seized allegedly from the car of the petitioner. He could not be apprehended. Crime has been registered. Investigation is complete. Final report has already been filed. Cognizance has been taken by the learned Magistrate. The petitioner has not entered appearance so far. The learned Magistrate has issued coercive processes against the petitioner. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioner earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek bail. He apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances, appropriate directions

may be issued under section 438 Cr.P.C, prays the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. It is for the petitioner to appear before the learned Magistrate and seek regular bail in the ordinary course, submits the learned Public Prosecutor.

4. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

5. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the

learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE